



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/601,319 10/23/00 KYOUND

T 0675-30

022204

MMC2/1009

NIXON PEABODY, LLP  
8180 GREENSBORO DRIVE  
SUITE 800  
MCLEAN VA 22102

EXAMINER

DONOVAN, I

ART UNIT

PAPER NUMBER

2832

DATE MAILED:

10/09/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**

Application No.  
**09/601,319**

Applicant(s)  
**Kyouno et al.**

Examiner  
**Lincoln Donovan**

Art Unit  
**2832**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on Aug 21, 2001

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-14 is/are pending in the application.

4a) Of the above, claim(s) 4-7 and 11-14 is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-3 and 8-10 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☒ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on Oct 23, 2000 is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some\* c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6

20) ☐ Other:

Art Unit: 2832

## **DETAILED ACTION**

### ***Election/Restriction***

1. Claims 4-7 and 11-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claimed inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

2. Applicant's election with traverse of the restriction in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the materials used to make the vibration plates are not distinct from the operation of the electromagnetic actuator. This is not found persuasive because the actuator design does not require any specific materials to function as claimed.

The requirement is still deemed proper and is therefore made FINAL.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate both the coil and coil support [figure 1]. Correction is required.

Art Unit: 2832

5. The drawings are objected to because cutaway views of insulative portions, for example "basket body" 30, should be cross-hatched as such. Correction is required.

*Specification*

6. The disclosure is objected to because of the following informalities: in the brief description of the drawings, "figure 8" in line 10 should be "figure 9."

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-3 and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 2, applicant should clarify what is intended by "that forms." In lines 4 and 5, applicant should clarify the "impression" of the current. In lines 5-6, applicant should clarify the specific positioning of the coil. In line 6, there is no antecedent basis for "the parts." Claims 2-3 inherit the defects of the parent claim.

Regarding claim 3, there is no antecedent basis for "the cover."

Art Unit: 2832

Regarding claim 8, lines 1-2, applicant should clarify the "impression" of the current. In lines 5-6, Applicant should clarify the specific positioning of the coil. In line 8, there is no antecedent basis for "the outer rim." Claim 9 inherits the defects of claim 8.

Regarding claim 10, lines 1-2, applicant should clarify the "impression" of the current. In lines 5-6, Applicant should clarify the specific positioning of the coil.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-2, as best able to be understood in view of the rejections under 35 U.S.C. 112, second paragraph, are rejected under 35 U.S.C. 102(b) as being anticipated by Saito [US 5,528,697].

Saito discloses an electromagnetic actuator [figure 5] comprising:

- a casing [18];
- a coil [25];
- yoke portions [26, 28] defining a gap between poles thereof [figure 5];
- a diaphragm [24];
- first and second vibration plates [24, 27];

Art Unit: 2832

- a radially arranged magnet [28] mounted, and suspended, between the vibration plates having its north and south poles parallel to the vibration plates and diaphragm; and

- wherein the diaphragm vibrates producing an audible output when a high frequency current is applied to the coil and the vibration plate [27] vibrates upon application of a low frequency current to the coil.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is, as best able to be understood in view of the rejections under 35 U.S.C. 112, second paragraph, rejected under 35 U.S.C. 103(a) as being unpatentable over Saito in view of Carlson [US 4,956,868].

Saito disclose the instant claimed invention except for: the casing having a cover being used to provide magnetic shielding.

Carlson discloses an electromagnetic acoustic transducer having a magnetically shielded casing/cover.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the casing design of Carlson for the casing of Saito for the purpose of protecting the actuator from stray magnetic fields.

Art Unit: 2832

13. Claims 8-10, as best able to be understood in view of the rejections under 35 U.S.C. 112, second paragraph, are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito.

Saito disclose the instant claimed invention except for: the specific support structure of the vibration plates within the casing.

The specific support structure used for the magnet components and vibration plates would have been an obvious design consideration based on the specific application of the device.

*Conclusion*

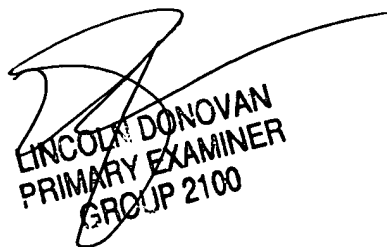
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lincoln Donovan whose telephone number is (703) 308-3111.

The fax number for this Group is (703)308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-0956.

LDD

October 4, 2001

  
LINCOLN DONOVAN  
PRIMARY EXAMINER  
GROUP 2100